

REMARKS

The Office Action mailed August 30, 2004 has been received and reviewed. Claims 1-21 are in the case. Claims 1-6 and 16 are object to for various claim informalities. Claims 1-21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Leonard.

By this amendment, claims 8-10, 12, 14-17, and 19-21 have been cancelled, claims 1, 6, 7, 11, 13, and 18 have been amended, and claims 22-32 have been added. As can be seen, the amendments to the claims 1, 6, 7, 11, 13, and 18 are not made to avoid the cited prior art. Rather the amendments improve the brevity and clarity of the claims. Moreover, claims 8-10, 12, 14-17, and 19-21 have been cancelled to facilitate the addition of new claims, not to avoid the prior art. For the reasons set forth below, claims 1-7, 11, 13, 18, and 22-32 are believed to be in condition for immediate allowance. Favorable reconsideration of the application in view of the following remarks is, therefore, respectfully requested.

Objection to Claims 1-6 and 16

Claims 1-6 and 16 are object to for various informalities. By this paper, claim 1 has been amended to remove the noted informality. Claim 16 has been cancelled to facilitate the addition of other claims.

Rejection of Claims 1-21 Under 35 U.S.C. §102(b)

Claims 1-21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Leonard. For a prior art reference to anticipate, every element of the claimed invention must be identically disclosed in a single prior art reference. Moreover, those elements must be arranged or connected together in a single reference in the same way as specified in the patent claim. Leonard does not meet this test.

With respect to claim 1, Leonard does not disclose a lateral beam selectively securable to be laterally adjustable with respect to a leg, as required by Applicant. The Office Action asserts that cross bar 38 of Leonard may be considered a lateral beam. Additionally, the Office Action asserts that post 23 may be considered a leg. However, in direct contrast to the claim limitations recited by Applicant, cross bar 38 is not laterally adjustable with respect to post 23. Only one position of cross bar 38 with respect to post 23 is supported by Leonard's disclosure. That position is where an aperture in cross bar 38 aligns with an aperture in cross bar 39 such that "...connecting bolt 42 secures the cross bars together." (Leonard column 3, lines 6-7.)

This interpretation of Leonard is reinforced by the fact that laterally positioning cross bar 38 in any other position with respect to post 23 would require posts 23 and 32 to deviate from the parallel arrangement required for the disclosed use (*i.e.* stacking using second stage posts 46). Furthermore, such non-parallel arrangements are not possible given Leonard's disclosure of welded connections and rigid sleeves and collars 24, 30, 33, 40, 41. Accordingly, a rejection of anticipation is improper.

Moreover, Leonard does not disclose a stop selectively securable to be laterally adjustable with respect to the lateral beam, as required by Applicant. As discussed hereinabove, the Office Action asserts that cross bar 38 of Leonard may be considered a lateral beam. Additionally, the Office Action asserts that connecting bolt 42 of Leonard may be considered a stop. However, in direct contrast to the claim limitations recited by Applicant, connecting bolt 42 is not laterally adjustable with respect to cross bar 38. Rather, connecting bolt 42 only secures to cross bar 38 in one position. That position is where an aperture is formed in the cross bar 38 to receive the connecting bolt 42. Leonard does not disclose the adjustability required by Applicant's claim. Accordingly, a rejection of anticipation is improper. Reconsideration is respectfully requested.

With respect to claim 2, Leonard does not disclose the first and second locks required by Applicant. The components (members 41, 45, and/or 47) asserted by the Office Action to be first and second locks are physically nowhere near, nor operable to influence, the members the Office Action credits them with securing.

For example, as stated hereinabove, the Office Action asserts that connecting bolt 42 of Leonard may be considered a stop and that cross bar 38 of Leonard may be considered a lateral beam. Claim 2 recites that the second lock selectively engages the the stop and lateral beam to fix the position of one with respect to the other. Accordingly, if the rejection of anticipation were supportable, some component disclosed by Leonard must act to secure connecting bolt 42 to cross bar 38. No such component exists.

As can be seen in Figures 1-4 of Leonard, not one of members 41, 45, 47, the components asserted by the Office Action to anticipate Applicant's second lock, are anywhere near connecting bolt 42. Moreover, not one of members 41, 45, 47 is functionally able to secure connecting bolt 42 with cross bar 38. Reconsideration is respectfully requested.

With respect to claim 3, Leonard fails to disclose securement apertures spaced apart, as claimed by Applicant. The Office Action does not identify such apertures in Leonard and Applicant finds none. Reconsideration is respectfully requested.

With respect to claim 4, Leonard fails to disclose a stop having an aperture to receive a lateral beam, as recited by Applicant. As stated hereinabove, the Office Action asserts that connecting bolt 42 of Leonard may be considered a stop and that cross bar 38 of Leonard may be considered a lateral beam. As can be seen in Figure 1 of Leonard, connecting bolt 42 does not have an aperture receiving cross bar 38. Reconsideration is respectfully requested.

With respect to claim 5, Leonard fails to disclose a leg having an aperture to receive a lateral beam, as recited by Applicant. As stated hereinabove, the Office Action asserts that post

23 of Leonard may be considered a leg and that cross bar 38 of Leonard may be considered a lateral beam. As can be seen in Figure 1 of Leonard, post 23 does not have an aperture receiving cross bar 38. Reconsideration is respectfully requested.

With respect to claim 6, Leonard fails to disclose a bracket and catch securing a deck, as claimed by Applicant. Reconsideration is respectfully requested.

With respect to claim 7, as presented hereinabove Leonard does not disclose a lateral beam selectively securable to be laterally adjustable with respect to a leg, as required by Applicant. The Office Action asserts that cross bar 38 of Leonard may be considered a lateral beam and that post 23 may be considered a leg. However, in direct contrast to the claim limitations recited by Applicant, cross bar 38 is not laterally adjustable with respect to post 23. Only one position of cross bar 38 with respect to post 23 is supported by Leonard's disclosure. That position is where an aperture in cross bar 38 aligns with an aperture in cross bar 39 such that "...connecting bolt 42 secures the cross bars together." (Leonard column 3, lines 6-7.)

Additionally, laterally positioning cross bar 38 in any other position with respect to post 23 would require posts 23 and 32 to deviate from the parallel arrangement required for the disclosed use. Such non-parallel arrangements are not possible given Leonard's disclosure of welded connections and rigid sleeves and collars 24, 30, 33, 40, 41. Accordingly, a rejection of anticipation is improper. Reconsideration is respectfully requested.

With respect to claim 11, Leonard fails to disclose a stand comprising a static portion, extension portion, and lock selectively fixing the position of the extension portion relative to the static portion. The Office Action does not identify such structures in Leonard and Applicant finds none. Reconsideration is respectfully requested.

With respect to claim 13, Leonard fails to disclose securement apertures required by Applicant. Reconsideration is respectfully requested.

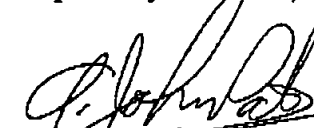
With respect to claim 18, Leonard fails to disclose a lateral beam, loading structure, and spacer oriented as claimed. Reconsideration is respectfully requested.

With respect to newly added claims 22-32, for at least the reasons outlined hereinabove, Leonard fails as an anticipatory reference.

In the event that the examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the examiner is respectfully urged to initiate the same with the undersigned.

DATED this 17th day of November, 2004.

Respectfully submitted,



A. John Pate
Reg. No. 36,234
Attorney for Applicant

Date: November 16, 2004

PATE PIERCE & BAIRD
550 Parkside Tower
215 South State Street
Salt Lake City, Utah 84111
Telephone: (801) 530-0330
Facsimile: (801) 530-5955

Z:\ALL CLIENTS\0529 Walwa/ter0529-2-20529-2-2 PAT-FIL-RDA1.rpd